

**TOWN OF BEAUX ARTS VILLAGE
ORDINANCE NO. 343**

AN ORDINANCE OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON
IMPOSING A MORATORIUM ON THE TOPPING OR REMOVAL OF TREES ON
PRIVATE PROPERTY IN THE TOWN OF BEAUX ARTS VILLAGE.

WHEREAS, the Town of Beaux Arts Village is fortunate to be sited among a large number of trees; and

WHEREAS, the trees provide stability to slopes, help control runoff into Lake Washington, and provide natural beauty to the Town; and

WHEREAS, trees on the public right-of-way and other public property are protected by state statute; and

WHEREAS, the topping or removal of trees on private property carries the potential of immediate negative effects on the lifestyle of the residents of the Town of Beaux Arts Village; and

WHEREAS, the Town of Beaux Arts Village does not currently address the various and immediate impacts to public health, safety, and general welfare that the failure to regulate the topping or removal trees on private property presents to the Town of Beaux Arts Village and its residents; and

WHEREAS, the Town of Beaux Arts Village needs to review, evaluate, and determine the need for the regulation of trees on private property; and

WHEREAS, RCW 35.63.200 authorizes towns to adopt moratoria provided that a public hearing is held within sixty (60) days of adoption; and

WHEREAS, the Town of Beaux Arts Village recognizes the need to remove trees on private property when same creates an immediate and imminent danger to persons or property; and

WHEREAS, the purpose of this ordinance is to provide time, during the moratorium period, in which the Town Council may study the topping or removal of trees and adopt any reasonable regulations as necessary; **NOW THEREFORE**,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE, WASHINGTON, AS FOLLOWS:

Section 1. Moratorium. The Council of the Town of Beaux Arts Village hereby declares a moratorium upon the topping or removal of any tree with a diameter in excess of eight inches measured at any point on the trunk and located on private property ("Protected Tree") in the Town of Beaux Arts Village.

Section 2. Exceptions. A protected tree may be removed only under one of the following exceptions:

2.1 The removal is necessary to remedy an immediate and imminent danger to persons or property and the removal is approved in writing by a member of the Town Council; or

2.2. A certified arborist who has been approved by the Town files a report with the Town Clerk stating that the tree poses a danger to persons or property and the removal is approved in writing by a member of the Town Council; or

2.3. An applicant for a building permit demonstrates to the Board of Adjustment that:

2.3.1 Waiting for this moratorium to expire creates an ~~undue~~ hardship for the applicant;

2.3.2 An exception is necessary because of ~~special~~ circumstances relating to the size, shape, topography, location, surroundings, and features of the applicant's property; and

2.3.3 The exception is ~~the minimum~~ reasonably necessary to relieve the demonstrated hardship.

Section 3. Penalty. The penalty for topping, intentionally damaging or removing a protected tree shall be a fine of \$2,500 per tree plus the cost to enforce collection of this fine and the cost of replacing the affected tree with a similar tree.

Section 4. Duration. This moratorium ~~shall be in effect for the 60 days following the date of this ordinance and shall expire at midnight on January 13, 2007 unless extended by the Town Council~~ has been extended until October 13, 2007 by Council action on January 9, 2007.

Section 5. Public Hearing. The Town Council shall hold a public hearing on this moratorium at a regular meeting on or before January 13, 2007. Immediately after the public hearing, the Town Council shall adopt findings of fact on the subject of this moratorium and either justify its continued imposition or cancel the moratorium.

Section 6. Staff Direction. During the moratorium, Town staff is directed to survey the tree regulations of surrounding jurisdictions and provide a summary of these regulations to the Council for review prior to the public hearing.

Section 7. Recitals and Findings of fact Incorporated. The recitals set forth on page 1 of this Ordinance are incorporated herein as though fully set forth herein and shall serve as Findings of Fact. The Town Council may amend such findings in whole or in part and adopt additional findings following a public hearing.

Section 8. Severability and Validity. If any section, paragraph, clause, or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance and each section, paragraph, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, paragraphs, clauses, or phrases subsequently may be found by competent authority to be unconstitutional or invalid.

Section 9. Effective Date. Based on the recitals and findings of facts set forth herein, this ordinance shall constitute a public emergency ordinance necessary for the protection of public health, safety, property and/or peace and shall become effective upon passage and approval.

PASSED BY THE COUNCIL OF THE TOWN OF BEAUX ARTS VILLAGE on the 14th day of November, 2006.

APPROVED BY THE MAYOR OF THE TOWN OF BEAUX ARTS VILLAGE on the 14th day of November, 2006.

Judee Wells, Mayor

ATTEST:

APPROVED AS TO FORM:

Sue Ann Spens, Clerk-Treasurer

Wayne Stewart, Town Attorney

I certify that copies of the above ordinance were posted as required by law in the Town of Beaux Arts Village, Washington, on the ____th day of _____, 2006.

Sue Ann Spens
Clerk-Treasurer